

**ZONING BOARD OF APPEALS
REGULAR MEETING
WEDNESDAY, MARCH 19, 2014, 3:00 P.M.
COUNCIL CHAMBERS, CITY HALL
109 EAST OLIVE ST., BLOOMINGTON, IL**

Members present: Ms. Barbara Meek, Mr. Robert Kearney, Ms. Amelia Buragas, Mr. Dick Briggs, Mr. Bill Zimmerman, Mr. Mike Ireland, Mr. Jim Simeone

Also present: Mr. Mark Woolard, City Planner
Mr. Frank Koehler, Interim Director Planning and Code Enforcement
Mr. Michael Kimmerling, Chief - Fire Department
Mr. Jim Karch, Director of Public Works
Mr. Kevin Kothe, City Engineer

Mr. Woolard called the meeting to order at 3:00 p.m. and called the roll. A quorum was present. The Board reviewed the minutes from February 19, 2014, and accepted the minutes as printed. Chairman Ireland explained the meeting procedures. Mr. Woolard stated the cases had been published.

REGULAR AGENDA:

SP-01-14 Public Hearing and Review on the petition submitted by Luther Oaks, Inc. requesting approval of a special use permit for a nursing home for the property located at 601 Lutz Road. Zoned S-2, Public Lands and Institutions District. (Ward 2).

Chairman Ireland introduced the case and asked for anyone who would like to speak regarding the petition. Mr. Bill Wetzel, 115 W. Jefferson, Suite 400, representing Luther Oaks was sworn in and stated that Luther Oaks is well used by this community. He said there were two issues that needed to be worked out and we have reached an agreement which is reflected in the staff report. He said that we have met all of the requirements for the special use and this is a sound project.

Tom Hankins, Luther Oaks Interim Administrator, 601 Lutz Road, was sworn in. He stated at Luther Oaks we have a continuing care retirement community. In August, 2013, Luther Oaks applied for a certificate of need with the Illinois Health Facilities Planning Board for a 36 bed skilled nursing addition that would have provided short term rehabilitation services as well as long term nursing care services to Luther Oaks residence and the surrounding community. This project was unanimously approved by the Zoning Board of Appeals in July, 2013. Due to low occupancy numbers within our region, the certificate of need was denied by the state board in August. A smaller 18 bed skilled nursing unit was approved by the state in February, 2014. He stated due to the project reconfiguration, we are here today requesting approval of the same project, only on a smaller scale. We are very excited for the project and the amount of jobs that it would bring to the Bloomington area. Most importantly, we are excited for the current residents who have waited for this project to get off the ground.

Mr. Kearney asked what has changed since last reviewed. Mr. Hankins explained the state board denied their first request due to the duplication of services within this service region. The state board likes to see a 90% occupancy rating within a skilled nursing environment. He said we have come with a much lower number under the state guidelines. The footprint is reduced from 36,000 square foot to about 20,000 square feet.

Mr. Simeone stated his like for the current project proposal as this seemed to have more service access than the first project, however the secondary access road is not shown in the current plan.

Michael Sewel, Civil Engineer, 2103 Eastland Drive was sworn in and stated the secondary road details have been submitted to the Fire Chief. He said there have been many conversations with staff resulting in language drafted with the city attorney. Those details will be submitted along with the building permits that will be reviewed by city engineering and the PACE department.

Mr. Simeone asked about the temporary construction access. Mr. Sewel explained the access is for construction only and is not meant for public access but for emergencies. A discussion ensued regarding the location of the secondary access. Mr. Simeone asked why the road is not placed permanently for the sake of public safety. Mr. Sewel stated that Luther Oaks doesn't own the property and there is a lease agreement in place with Trinity Lutheran Church, so there is no control over the long term use of that roadway or the development of their property. Mr. Wetzel explained Luther Oaks is a tenant and the Greenwood Avenue access is not considered permanent. Chairman Ireland asked if the agreement is in place. Mr. Wetzel stated the agreements are in place. The Luther Oaks and Trinity Lutheran Church relationship is solely that of landlord and tenant.

Chairman Ireland asked if anyone else was present to speak in favor of this special use petition and no one spoke. Chairman Ireland asked if anyone was present to speak in opposition of this special use petition and no one spoke.

Mr. Woolard explained the staff position is that the land use is compatible with nearby land uses. The only concern was the secondary access for emergency vehicles and an agreement has been reached. There are two conditions of approval. One is to install a screen in the sewer system to prevent clogging. The second condition addresses concerns over the maintenance of the secondary access. Staff recommends approval with the two conditions as stated in the staff report.

Mr. Briggs inquired about who is responsible to verify the secondary access is maintained. Fire Chief, Mike Kimmerling explained the residents are at a higher risk than average due to the population may not be able to self-evacuate. The main access is still off of Lutz Road. When the construction access was proposed the secondary access for emergency vehicles was discussed with all parties. The purpose is to have multiple ways to bring vehicles in if necessary. The Fire Department will inspect this area to be sure the surface can support a heavy duty apparatus. He stated that there was not any other apparent option for a second access at the time Luther Oaks first proposed the project. There are many factors figured into public safety. The future development, the movement of ambulances and fire apparatus, the current road conditions and temporary options were all factors considered when we discussed this with Trinity Lutheran Church and Luther Oaks. Mr. Simeone asked if there were other fire apparatus entrances into residential areas similar to this situation. Mr. Kimmerling stated the new apartments off of Hamilton and Hershey were in need of similar access points.

Mr. Wetzel reiterated how there have been efforts of many to reach an agreement the city could support. He asked for the recommendation of approval from this board for this special use permit.

Mr. Briggs made a motion to include the two conditions as stated in the staff recommendations, points one and two, verbatim. Mr. Zimmerman supported the motion which was approved with a voice vote of seven (7) voting in favor and zero (0) against.

The vote on recommending approval of special use permit SP-01-14 with the two conditions was approved with seven (7) voting in favor and zero (0) against with the following votes being cast on roll call: Mr. Briggs—Yes; Ms. Meek—Yes; Mr. Simeone—Yes; Mr. Kearney—Yes; Mr. Zimmerman—Yes; Ms. Buragas—Yes; Mr. Ireland—Yes.

SP-02-14 Public Hearing and Review on the petition submitted by Dennis Pulliam requesting approval of a special use permit for a two-family residence for the property located at 611 S. Clayton Street. Zoned R-1C, Single-Family Residence District. (Ward 1).

Chairman Ireland introduced the case and asked for anyone who would like to speak regarding the petition. Mr. Dennis Pulliam, 613 W. Market, owner of 611 S. Clayton Street was sworn in and stated he recently purchased the property. He is requesting to keep the original two units. A photograph of the premises as it exists was presented to the board.

Mr. Pulliam described the brick structure as an old store built in the early 1900's. He stated the cleaning process had begun with plans to add new appliances, new windows and deadlocks. Mr. Briggs inquired about the realtor process. Mr. Pulliam stated the realtor advertisement portrayed a two-family dwelling. He made an offer and was told the special use had possibly lapsed.

Ms. Buragas read the intent of the R-1C Residence District and said it is to provide primarily for the establishment of areas of higher density single-family detached dwellings while recognizing the potential compatibility of two-family dwellings as special uses. This district may be applied to newly developing areas as well as the older residential areas of the City where larger houses have been or can be converted from single-family to two-family residences in order to extend the economic life of these structures and allow the owners to justify the expenditures for repairs and modernization. Ms. Buragas stated the economic justification seemed to apply in this situation. This improvement seems to enhance the neighborhood itself. Mr. Pulliam explained most of the property improvements have been to the interior, however he plans exterior work such as landscaping and painting when the weather cooperates.

A discussion ensued regarding the property which has never been single family. Mr. Zimmerman inquired about the neighborhood density, the total possible occupancy and other multi-family units exist in this neighborhood. Mr. Pulliam stated the total living space is 2400 square foot and at the most six people can live in the building at one time. He said a multi-family unit is adjacent to his building. Mr. Pulliam stated he plans to provide four parking spaces.

Chairman Ireland asked if anyone else would like to speak in favor of this special use petition and no one spoke. Chairman Ireland asked if anyone would like to speak in opposition of this special use petition and no one spoke.

Mr. Woolard explained staff is concerned with the substandard lot in a predominantly single family home area. There are 23 single family homes and only four other properties with higher densities. This building was originally built as a store front which was converted into a two-family residence.

Mr. Simeone stated it would appear that the city is attempting to speak for those neighbors who currently reside in the area and for those who may reside in the neighborhood in the future. Since there were no neighbors present to oppose this situation, it speaks volumes to the level of concern with regard to density. A discussion ensued regarding density, exceptions and special uses.

Mr. Kearney asked about the definition of abandonment with regard to a special use status. Mr. Woolard stated the ordinance has a six month period.

Ms. Buragas said the current zone of R-1C is a higher density region with single-family and two-family dwellings. This one appears to be an oddity in that a two family home is requesting to remain a two family home so there is not a conversion.

Chairman Ireland inquired if the previous owner had a special use on this property. Mr. Woolard confirmed that the special use was in place, however it's not clear on how far back that designation had lapsed. It is the abandonment issue that requires the owner to bring the building into compliance as a single-family dwelling or request a special use for a two-family dwelling.

The vote on recommending approval of special use permit SP-02-14 was approved with seven (7) voting in favor and zero (0) against with the following votes being cast on roll call: Mr. Kearney—Yes; Ms. Meek—Yes; Mr. Briggs—Yes; Ms. Buragas—Yes; Mr. Zimmerman—Yes; Mr. Simeone—Yes; Mr. Ireland—Yes.

PUBLIC COMMENT: None

OTHER BUSINESS:

Election of Chairman: The board discussed a section from the new ordinance on term limits and the application of said ordinance. Ms. Buragas stated there is confusion over board officers. Mr. Kearney expressed concern over the impending deadlines. Mr. Ireland explained the Vice Chair has always been a nominated position among the members who are present. Vice Chair in this board has not been a permanent position, however it seems to be a good idea for a permanent position. A discussion ensued on the length of the office term based on the language. Mr. Simeone stated that a May election would allow for clarity. Board members can email their questions or comments to Mr. Woolard and this item will remain on the agenda for additional discussion.

NEW BUSINESS:

Chairman Ireland stated evidence which is submitted needs to be kept by the board. When the photo on the petitioner's phone was presented, there is no way to keep that piece if there would be a future appeal to a higher court. There was discussion on not encouraging petitioners to present photos from their phone and if it's going to be considered by the board, then it needs to be part of the record. An item description is also acceptable. Ms. Meek stated the digital photo was critical in her understanding of this petition request.

ADJOURNMENT: 4.47 p.m.

Respectfully;

Mark Woolard